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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FOUR

PATRICK A. MISSUD, Plaintiff and Appellant, v. LUCY ARMENDARIZ et al., Defendants and Respondents.	A143554 (San Francisco City & County Super. Ct. No. CGC-14-536981)

Patrick A. Missud (appellant) appeals from two orders of the trial court, both filed on October 7, 2014. The first order attached to appellant's notice of appeal is one granting respondents' motion to quash service of summons, and granting respondents' special motion to strike, pursuant to Code of Civil Procedure section 425.16. The second order granted respondents' motion to strike appellant's motion for summary judgment/adjudication on numerous grounds.

First, it appears that no judgment has been issued. Interlocutory orders are not appealable. (*Kinoshita v. Horio* (1986) 186 Cal.App.3d 959, 962-963; *Lester v. Lennane* (2000) 84 Cal.App.4th 536, 560; Code Civ. Proc., § 904.1.) Therefore, appellant may not appeal from an order granting respondents' motion to quash service of summons.[1]

In addition, appellant's briefs present an unintelligible compilation of disjointed historical facts, accusations, and claims which fail to comply with many fundamental rules of appellate procedure. Those deficiencies include the failure to: (1) present legal

[1] An appeal from the grant or denial of a motion dismiss under the anti-SLAPP statute is appealable. (Code Civ. Proc., § 425.16, subd. (i).)

analysis and relevant supporting authority for each point asserted, with appropriate citations to the record on appeal (*Duarte v. Chino Community Hospital* (1999) 72 Cal.App.4th 849, 856); (2) support references to the record with a citation to the volume and page number in the record where the matter appears; and (3) state the nature of the action, the relief sought in the trial court, and to summarize the significant facts, but limited to matters in the record (Cal. Rules of Court, rule 8.204(a)(1)(C), (2)(A), (C)).

These are not mere technical requirements, but important rules of appellate procedure designed to alleviate the burden on the court by requiring litigants to present their cause systematically, so that the court "may be advised, as [it] read[s], of the exact question under consideration, instead of being compelled to extricate it from the mass." (*Landa v. Steinberg* (1932) 126 Cal.App. 324, 325.)

Perhaps most importantly, the incomprehensible nature of appellant's briefs makes it impossible for this court to discern what precise errors he is claiming were made by the trial judge, and how such errors were prejudicial. We are not required to search the record on our own seeking error. (*Del Real v. City of Riverside* (2002) 95 Cal.App.4th 761, 768.)

We note that appellant appears before us in propria persona.[2] His unrepresented status in no way excuses the deficiencies in his briefs. (*Burnete v. La Casa Dana Apartments* (2007) 148 Cal.App.4th 1262, 1267 [" ' "[T]he in propria persona litigant is held to the same restrictive rules of procedure as an attorney" ' "].) Appellant's self-represented status does not exempt him from the rules of appellate procedure or relieve him of his burden on appeal. Those representing themselves are afforded no additional leniency or immunity from the rules of appellate procedure simply because of their in propria persona status. (See *Rappleyea v. Campbell* (1994) 8 Cal.4th 975, 984–985; see also *Nwosu v. Uba* (2004) 122 Cal.App.4th 1229, 1246–1247.) These deficiencies are a separate and independent basis requiring the dismissal of the current appeal.

[2] Appellant was a licensed attorney in California from 2002 until his disbarment by the California Supreme Court in 2015.

In their respondents' brief, respondents Lucy Armendariz and Joann Remke argue that appellant should be sanctioned for filing a frivolous appeal under Code of Civil Procedure section 907, and rule 8.276(a) of the California Rules of Court. We gave written notice to appellant on October 20, 2015, that at the time of oral argument the court would consider the question of sanctions. (*In re Marriage of Flaherty* (1982) 31 Cal.3d 637, 654; *Hummel v. First National Bank* (1987) 191 Cal.App.3d 489, 495.) A written submission was received from appellant on November 3, 2015, and appellant was afforded the opportunity to address the issue of sanction at oral argument on November 10, 2015. In addition, appellant submitted a further unsolicited written response which was received by this court on November 10, 2015.

We conclude sanctions are appropriate in this case. An appeal is sanctionable as frivolous when it is prosecuted for an improper motive to harass the respondents, or to delay the effect of an adverse judgment, or where it indisputably is totally and completely without merit. (*In re Marriage of Flaherty*, *supra*, 31 Cal.3d at pp. 650-651.) Both standards are met in this case.

First, any reasonable person reading the invective-filled briefs filed by appellant, including the provocative and hyperbolic prose he uses, would conclude that the purpose of this appeal is simply to harass respondents, causing them as much discomfiture as possible by the unrelenting prosecution of plainly meritless litigation against them.[3] Moreover, for the reasons already articulated in this opinion, there is not a shadow of a doubt that appellant's appeal is totally and completely meritless. (See *Kleveland v. Siegel & Wolensky, LLP* (2013) 215 Cal.App.4th 534, 557.)

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[3] To the extent the vitriol in appellant's briefs is directed at this court or this panel's members, we are not distracted in our obligations to resolve issues and disputes that come before us in an impartial and dignified manner, and without embroilment. Thus, the issue of sanctions is limited to those considerations allowed by law including the harassment and hardship this litigation has visited on respondents, its negative impact on other parties' access to justice, and the degree of lack of merit to the appeal. Likewise, while we have taken judicial notice of an order declaring appellant a vexatious litigant, we do not find it relevant to the issues we decide in this appeal.

While respondents seek no specific monetary sanction themselves, they ask us to impose a monetary sanction payable to this court "in an amount sufficient to compensate this Court for the cost of processing, reviewing, and deciding [appellant's] frivolous appeal." Indeed, courts have long recognized this concept: "Respondent[s] . . . are not the only parties damaged when an appellant pursues a frivolous claim. Other appellate parties, many of whom wait years for a resolution of bona fide disputes, are prejudiced by the useless diversion of this court's attention. [Citation.] In the same vein, the appellate system and the taxpayers of this state are damaged by what amounts to a waste of this court's time and resources. [Citations.] Accordingly, an appropriate measure of sanctions should also compensate the government for its expense in processing, reviewing and deciding a frivolous appeal. [Citations.]" (*Finnie v. Town of Tiburon* (1988) 199 Cal.App.3d 1, 17.)

Accordingly, and in light of all of the foregoing, this court orders appellant to pay sanctions directly to the clerk of this court. (*In re Marriage of Gong & Kwong* (2008) 163 Cal.App.4th 510, 520 (*Gong*).) In *Gong*, Division One of this court imposed $6,000 in sanctions. In arriving at this figure, the following calculus was employed: "A number of Court of Appeal decisions have adopted figures of $5,900 to $6,000 as a conservative estimate of the costs of processing an average appeal, basing those figures on a calculation made in 1992. [Citations.] A current cost analysis undertaken by the clerk's office for the Second District Court of Appeal, using the same general methodology, indicates the cost of processing an appeal that results in an opinion by the court to be approximately $8,500, while the cost for processing a case that is resolved without opinion (for example, by dismissal for lack of an appealable order) to be approximately $1,750. We are dismissing the appeal here, but the nature of the case and of Mr. Kwong's arguments have caused us to effectively issue an opinion. However, we also recognize the legal issues involved are not at all complex. We conclude that sanctions of $6,000, payable to the clerk of this court, are appropriate."

Although the costs of processing appeals has doubtlessly increased in the eight years since *Gong* was decided, we find this amount appropriate for sanctions here.

Accordingly, appellant is ordered to pay to the clerk of this court the sum of $6,000 as sanctions. Said sanctions shall be paid no later than 15 days after the remittitur is filed.

DISPOSITION

The orders challenged are affirmed. Sanctions in the amount of $6,000 are ordered to be paid to the clerk of this court by appellant within 15 days after the remittitur is filed. The clerk of the court is directed to deposit the sum paid into the general fund. Costs of appeal are awarded to respondents.

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RUVOLO, P. J.

We concur:

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REARDON, J.

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STREETER, J.